



100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166
Tel: 717.232.8000 • Fax: 717.237.5300

Teresa K. Schmittberger
Direct Dial: 717.237.5270
Direct Fax: 717.260.1688
tschmittberger@mwn.com

June 24, 2013

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

VIA ELECTRONIC FILING

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

Dear Secretary Chiavetta:

Please find enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") the Motion for Clarification and Request for Expedited Consideration of the Industrial Energy Consumers of Pennsylvania ("IECPA") in the above-referenced proceeding. **For reasons discussed further within the attached Motion, we would respectfully request expedited consideration for this Motion. As such, we are asking all interested parties to submit all responses to this Motion by Wednesday, June 26, 2013.**

As evidenced by the attached Certificate of Service, all parties to the proceeding are being duly served with a copy of this document.

Very truly yours,

McNEES WALLACE & NURICK LLC

By 
Teresa K. Schmittberger

Counsel to the Industrial Energy Consumers of Pennsylvania

TKS/sar
Enclosures

c: Administrative Law Judge Elizabeth H. Barnes (via E-mail and First Class Mail)
Certificate of Service

www.mwn.com

HARRISBURG, PA • LANCASTER, PA • STATE COLLEGE, PA • COLUMBUS, OH • WASHINGTON, DC

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).

VIA E-MAIL AND FIRST CLASS MAIL

Allison Kaster, Esquire
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor West
Harrisburg, PA 17105
akaster@pa.gov

Aron J. Beatty, Esquire
Darryl A. Lawrence, Esquire
Pennsylvania Public Utility Commission
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101
abeatty@paoca.org
dlawrence@paoca.org

Elizabeth Rose Triscari, Esquire
Sharon E. Webb, Esquire
Pennsylvania Public Utility Commission
Office of Small Business Advocate
300 North Second Street, Suite 1102
Harrisburg, PA 17101
etriscari@pa.gov
swebb@pa.gov

Theodore J. Gallagher, Esquire
Nisource Corporate Services Company
121 Champion Way, Suite 100
Canonsburg, PA 15317
tjgallagher@nisource.com
Counsel for Columbia Gas of Pennsylvania, Inc.

Mark C. Morrow, Esquire
Melanie J. Elatieh, Esquire
UGI Corporation
460 North Gulph Road
King of Prussia, PA 19406
morrowm@ugicorp.com
elatiehm@ugicorp.com

William H. Roberts, II, Esquire
Peoples Natural Gas Company LLC
375 North Shore Drive, Suite 600
Pittsburgh, PA 15212
william.h.roberts@peoples-gas.com

David P. Zambito, Esquire
Cozen O'Connor
305 North Front Street, Suite 400
Harrisburg, PA 17101
dzambito@cozen.com
Counsel for Peoples Natural Gas Company LLC

Jennifer L. Petrisek, Esquire
Peoples TWP
375 North Shore Drive, Suite 600
Pittsburgh, PA 15212
jennifer.petrisek@peoples-gas.com

Maureen Geary Krowicki, Esquire
National Fuel Gas Distribution Corporation
PO Box 2081
1100 State Street
Erie, PA 16512
krowickim@natfuel.com

Certificate of Service

Docket Nos. P-2011-2277868 and I-2012-2320323

Page 2

Bruce V. Miller, Esquire
Cullen and Dykman LLP
100 Quentin Roosevelt Blvd
Garden City, NY 11530
bmiller@cullenanddykman.com
Counsel for National Fuel Gas Distribution Corporation

Thomas J. Sniscak, Esquire
William E. Lehman, Esquire
Hawke McKeon Sniscak LLP
100 North Tenth Street
P.O. Box 1778
Harrisburg, PA 17105
tjsniscak@hmslegal.com
welehman@hmslegal.com
Counsel for The Pennsylvania State University

Amy Neufeld, Esquire
Exelon Business Services Company
500 North Third Street, Suite 800
Harrisburg, PA 17110
amy.neufeld@exeloncorp.com

Michael S. Swerling, Esquire
Exelon Business Services Company
2301 South Market Street, S23-1
Philadelphia, PA 19101
michael.swerling@exeloncorp.com
Counsel for PECO Energy Company

Donna M.J. Clark, Esquire
Energy Association of Pennsylvania
800 North Third Street, Suite 205
Harrisburg, PA 17101
dclark@energypa.org

Charles E. Thomas, Jr., Esquire
Thomas T. Niesen, Esquire
Thomas, Long, Niesen & Kennard
212 Locust Street
P. O. Box 9500
Harrisburg, PA 17108-9500
cthomasjr@thomaslonglaw.com
tniesen@thomaslonglaw.com
Counsel for Equitable Gas Company, LLC

David W. Gray, Esquire
Equitable Gas Company, LLC
225 North Shore Drive
Pittsburgh, PA 15212
dgray@equitablegas.com

Kevin J. Moody, Esquire
Pennsylvania Independent Oil & Gas Association
212 Locust Street, Suite 300
Harrisburg, PA 17101
kevin@pioga.org

Tishekia Williams, Esquire
Duquesne Light Company
411 Seventh Avenue, 16th Floor
Pittsburgh, PA 15219
twilliams@duqlight.com

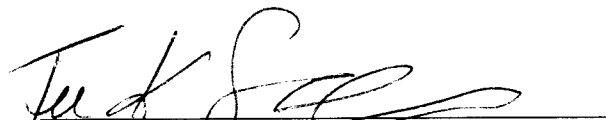
CONSULTANTS

Brian Kalcic, Consultant
Excel Consulting
222 S. Meramec Avenue, Suite 720-T
St. Louis, MO 63105
excel.consulting@sbcglobal.net

Robert D. Knecht
Industrial Economics Incorporated
2067 Massachusetts Avenue
Cambridge, MA 02140
rdk@indecon.com

Glenn A. Watkins, Executive/VP Consultant
Technical Associates, Inc.
9030 Stony Point Parkway
Suite 580
Richmond, VA 23235
watkinsg@tai-econ.com

Diane Meyer Burgraff
19 Westwind Drive
Lemoyne, PA 17043
dmburgraff@epix.net



Teresa Schmittberger

Counsel to the Industrial Energy Consumers of
Pennsylvania

Dated this 24th day of June, 2013, at Harrisburg, Pennsylvania

period due to the time that has been lost to date; (4) assuming *arguendo* that note-taking would not be permitted, in the alternative, producing parties be required to make all Highly Confidential Information and Customer-Specific Discount Information available to IECPA's counsel and expert for inspection five days a week, during normal business hours, from now until the end of the discovery period; (5) assuming *arguendo* that note-taking would not be permitted, producing parties must be required to make Highly Confidential and Customer-Specific Discount Information available for inspection in or around Harrisburg; and (6) assuming *arguendo* that note-taking would not be permitted, producing parties must allow IECPA's counsel and witness to review and discuss the discovery responses in private without the presence of opposing counsel. Finally, IECPA requests expedited consideration of this Motion to prevent further prejudicial treatment of IECPA's discovery rights.

I. BACKGROUND

As required by the Commission's Rules of Administrative Practice and Procedure, the parties to the above-captioned proceeding have been engaged in discovery efforts in order to prepare and submit Direct Testimony by the August 8, 2013, due date.² Discovery in this proceeding is further governed by the Protective Order, which sets forth procedures regarding the availability of sensitive proprietary information, including, in relevant part, "Highly Confidential Information" and "Customer-Specific Discount Information."³ Pursuant to Paragraph 4 of the Order, all Highly Confidential Information and Customer-Specific Discount Information

² See 52 Pa. Code § 5.321. IECPA is an intervenor in the instant proceeding.

³ For purposes of the Protective Order, Highly Confidential Information includes: "(i) customer names or customer prospect names, addresses, annual volumes of gas usage, or other customer-identifying information; (ii) non-public financial information and marketing plans; (iii) competitive strategies or service alternatives; (iv) market share projections; (v) competitive pricing or discount information; (vi) marketing materials that have not yet been used; (vii) settlement agreements; and, (viii) agreements that have been designated by the signatory parties to the agreements as confidential." See Protective Order, P 2. Customer-Specific Discount Information is defined as "competitive pricing or discount information regarding a specific customer or a subgroup of customers" that has been designated as Highly Confidential Information. See *id.* at P 4(c).

(collectively "Information") is available for **inspection** by two attorneys of a non-statutory intervenor party at a mutually-agreeable location to the Producing Party and the intervenor. Paragraph 4(c)(i) further provides that a requesting Party's witness may **inspect** the Information upon execution of Appendix B to the Protective Order unless he or she qualifies as Competitive Duty Personnel.

Despite IECPA's good-faith efforts to comply with the terms of the Protective Order, disputes have arisen between IECPA and Peoples Natural Gas, LLC ("Peoples"), Equitable Gas LLC ("Equitable") and Columbia Gas of Pennsylvania, Inc. ("Columbia") (collectively, "Companies") regarding interpretation of the above-described procedures for access to the Information. On June 3, 2013, IECPA provided all of the parties with Diane Burgraff's⁴ executed Appendix B to the Protective Order. Consistent with section 4(c)(1) of the Protective Order, IECPA then provided a written request to Equitable on June 4, 2013, requesting to schedule a time and date for inspection of the Information by IECPA's attorneys and expert witness. In response, Equitable indicated that, despite Ms. Burgraff's execution of Appendix B of the Protective Order indicating she was not Competitive Duty Personnel, she may qualify as Competitive Duty Personnel for purposes of the Protective Order and could not inspect the Information at that time. In addition, Equitable indicated that its interpretation of the Protective Order required IECPA's attorneys to view the Information first and then subsequently request

⁴ As noted previously, Ms. Burgraff is IECPA's expert witness in this proceeding.

that IECPA's consultant view the Information thereafter.⁵ Although in disagreement on both points, on June 11, 2013, IECPA's counsel traveled to inspect the Information to continue moving along discovery efforts in the proceeding. At this inspection, IECPA's counsel was neither allowed to take any notes related to the Information nor be alone with the Information, which consisted of over 700 line items of data or over 4,200 Excel cells of data.

After this inspection, on June 14, 2013, IECPA provided interrogatory responses (attached as Exhibit A hereto) to all parties in hopes of alleviating any concerns related to Ms. Burgraff's status as Competitive Duty Personnel.⁶ On June 17, 2013, IECPA provided written requests to Equitable, Peoples, and Columbia to arrange a time for IECPA and Ms. Burgraff to inspect their interrogatory responses including Highly Confidential and Customer-Specific Discount Information. Equitable responded that Ms. Burgraff would be allowed to view the responses, but that neither Ms. Burgraff nor IECPA's counsel could take notes from the interrogatory responses. In addition, neither Ms. Burgraff nor IECPA's counsel would be permitted to discuss the Information with each other while inspecting the responses without the presence of Equitable's counsel.

Peoples' response to IECPA's request mimicked Equitable's original response to IECPA related to inspection of its Highly Confidential and Customer-Specific Discount Information.

⁵ Paragraph 4.c. of the Protective Order states that "[n]o person other than an Authorized Inspecting Lawyer shall be entitled to inspection or receipt of Customer-Specific Discount Information except as authorized by the explicit consent of the Producing Party or by order of the Commission or of the presiding Administrative Law Judge." Protective Order, p. 6. Paragraph 4.c.i. of the Protective Order states that "[s]ubject to the limitations set forth above and upon written request to the Producing Party's counsel, a requesting Party's experts may inspect Customer-Specific Discount Information upon execution of Appendix B...." Protective Order, p. 7. According to Equitable, the fact that attorney inspection is discussed in Paragraph 4.c., while witness inspection is discussed in Paragraph 4.c.i., places temporal limitations on an expert reviewing the Information only after the attorney has reviewed this Information. Importantly, as discussed more fully herein, to the best of our knowledge, such temporal limitations were not placed on the State Advocates or their expert witnesses.

⁶ IECPA prepared these interrogatory responses in less than the required time (*i.e.*, in seven days as compared to the allowed 20 days) in order to resolve any concerns related to its consultant as expeditiously as possible.

Peoples explained that IECPA's counsel would first have to come view the Information.⁷ In addition, Peoples would not waive its right to assert that Ms. Burgraff is Competitive Duty Personnel, but rather, Peoples requested that IECPA contact Peoples and discuss what if any Information Ms. Burgraff would need to prepare her testimony as well as the form of production of such Information. In other words, at this time, Peoples has not indicated that Ms. Burgraff can inspect the Information in total.⁸

Finally, similar to the responses of Equitable, Columbia also indicated that neither IECPA's counsel nor its witness would be permitted to take notes during any review of this Information.⁹ In addition, if IECPA's counsel and witness found it necessary to discuss the information, Columbia's counsel indicated that the Information would be physically removed from their presence before any type of private discussion could occur. To add insult to injury, Columbia originally proposed that inspection of the Information occur in Canonsburg, Pennsylvania, (*i.e.*, over 210 miles from IECPA's counsel and witness). After discussion, Columbia agreed to meet IECPA for inspection halfway between Canonsburg and Harrisburg. The aforementioned rules regarding inability to take notes or discuss the issues privately with the information in the room would continue to apply. Moreover, at this time, neither Columbia nor IECPA have discussed who would incur the costs of finding and renting a space for such review.

⁷ In light of the nature of this proceeding, IECPA is fairly certain that Peoples' Customer-Specific Discount Information would be substantially similar in scope to that of Equitable's Customer-Specific Discount Information. As such, IECPA submits that review by counsel is not necessary to confirm that IECPA would want Ms. Burgraff to review this Information in total. In addition, due to Peoples providing similar limitations to those set forth by Equitable, we expect that Peoples would also limit our note-taking and discussion abilities.

⁸ IECPA is unaware of any provision in the Protective Order that would limit Ms. Burgraff's inspection to only certain aspects of Highly Confidential and Customer-Specific Discount Information much less any parameters in the Protective Order that would effectively require IECPA to share its proposed litigation strategy with the Producing Party in order to allow IECPA's witness to receive some extremely limited version of the Information.

⁹ At this point in time, Columbia's communications to IECPA have not confirmed whether or not they believe Ms. Burgraff is Competitive Duty Personnel.

As a result of the above-described discovery roadblocks erected by the Companies, Ms. Burgraff has not yet been able to inspect any of the Information, and counsel for IECPA has only been able to take a cursory glance at Equitables' Information without taking notes.¹⁰ These stalling tactics have created not only created unreasonable delays for IECPA to review the Information, they have also created an unlevel playing field for IECPA as compared to the State Advocates when preparing Direct Testimony.¹¹

In stark contrast to IECPA, the State Advocate attorneys and experts have had access to all the Companies' Highly Confidential and Customer-Specific Discount Information since May 13, 2013. The State Advocate attorneys and experts received hard copy and/or email delivery of this Information and can currently review this Information at their leisure. IECPA is aware of no requirement that the State Advocate attorneys were required to view the Information before their experts. Both the State Advocate attorneys and experts may take notes from this Information, openly discuss this Information with each other, and fully evaluate how the Information may impact their clients. The State Advocate attorneys and experts may freely refer to and quote this Information in their Direct Testimony and are currently in a position to be drafting such Testimony.¹² Because of the prejudice IECPA has experienced in receiving none of the same

¹⁰ In light of the aforementioned barriers IECPA's counsel has faced, further review of the Information without clarification by Your Honor would result in further use of resources that could be better spent on the substance of the investigation rather than addressing discovery disputes.

¹¹ The State Advocates in this proceeding include the Bureau of Investigation and Enforcement ("I&E"), Office of Consumer Advocate ("OCA") and Office of Small Business Advocate ("OSBA").

¹² Considering the time that has already passed, the State Advocate attorneys and their witnesses will have had this Information for almost two months before IECPA has even conducted any meaningful review.

advantages as the State Advocate attorneys and their witnesses, IECPA requests expedited relief to ensure its ability to engage in meaningful discovery in the instant proceeding.¹³

As discussed more fully herein, because of the issues that have plagued IECPA's counsel and witness to view Highly Confidential and Customer-Specific Discount Information, IECPA requests that Your Honor issue an order clarifying that Ms. Burgraff is not Competitive Duty Personnel and is therefore authorized to view Highly Confidential Information and Customer-Specific Discount Information; and the term "inspect," as used in the Protective Order, contemplates that inspecting lawyers and witnesses may take notes to allow for adequate scrutiny of the Information. In order to mitigate the impact of the Companies' ongoing prejudicial treatment of IECPA's discovery rights, IECPA further requests that Your Honor issue an order requiring the Companies to make the Information available to IECPA for inspection at least two business days per week for the remainder of the discovery period.¹⁴ In the alternative, in the event that "inspections" conducted pursuant to the Protective Order exclude note-taking, IECPA requests that its counsel and witness be permitted to view and discuss the Information in private and without restriction, Monday-Friday, during normal business hours, for the remainder of the discovery period to allow for adequate review of the Information. Finally, if no note-taking is permitting, IECPA further requests that Columbia make its Information available for inspection at a location in or around Harrisburg to allow for the parameters of Monday-Friday viewing hours.

¹³ IECPA's attorneys and its witness will only be able to view this Information during regular business hours (as compared to State Advocate attorneys and their witnesses who have hard copies of this Information to review during evenings and weekends). Considering that from the date of this Motion approximately 30 business days remain for such review (and assuming that the Companies do not set forth additional roadblocks with respect to the days and times upon which such review can occur), whether meaningful review of this Information can occur in time for testimony submission remains questionable.

¹⁴ Although obvious, IECPA believes it imperative that the Companies must not propose identical days of the week for inspection, as that would obviously defeat the purpose of this request.

II. MOTION FOR CLARIFICATION

A. IECPA's Expert Witness is Not Competitive Duty Personnel and is Entitled To Review all Highly Confidential and Customer-Specific Discount Information.

As discussed in Section I, *infra*, IECPA's expert witness, Diane Burgraff, has not yet been able to inspect any of the Information, which is essential for preparation of IECPA's Direct Testimony in this proceeding. In their efforts to delay Ms. Burgraff's inspection of the Information, the Companies have initially asserted (*i.e.*, Equitable), implied (*i.e.*, Peoples), or remain unconfirmed (*i.e.*, Columbia) that Ms. Burgraff is Competitive Duty Personnel. In order to ensure that Ms. Burgraff is allowed meaningful access to this Information, IECPA submits that clarification by Your Honor that Ms. Burgraff is not Competitive Duty Personnel is the only way to ensure that Ms. Burgraff receives unlimited access to Highly Confidential and Customer-Specific Discount Information from all of the Companies.

IECPA submits that Ms. Burgraff is not Competitive Duty Personnel as defined in the Protective Order and is therefore entitled to inspect the Information subject to the confidentiality obligations of Appendix B. The Protective Order defines Competitive Duty Personnel as follows:

[A]ny employee or agent of a Receiving Party whose duties include, on a consistent and regular basis: (a) the marketing, sale, or purchase of natural gas or natural gas transportation services or facilities from or to a Producing Party, from or to a competitor of the Producing Party, or for a shipper or prospective shipper on a pipeline that competes with the Producing Party; (b) the exploration for or the production of natural gas or the acquisition of property rights in connection therewith; (c) management responsibility regarding, or the supervision of any employee whose duties include those identified in clauses (a) or (b) of this Paragraph; (d) the provision of consulting services regarding the activities regarding the activities identified in clauses (a) or (b) of this Paragraph; or (e) management responsibility regarding other strategic business activities in which use of the Customer-Specific

Discount Information could be reasonably expected to cause some competitive harm to the Producing Party.¹⁵

Despite the Companies' speculations to the contrary, Ms. Burgraff does not meet the Protective Order's definition of Competitive Duty Personnel. As indicated in Exhibit A, Ms. Burgraff is neither an employee nor the manager of employees who engages in the marketing, sale, or exploration of natural gas. Over a decade ago, Ms. Burgraff worked at Peoples, but left this position in 1999. Exhibit A, IECPA Response to PNG I-2. Moreover, Ms. Burgraff currently does not consult for any entities or engage in any activities related to marketing, sale, or exploration of natural gas on a consistent or regular basis. Since leaving Peoples, Ms. Burgraff served as a consultant in four isolated PUC proceedings related to natural gas, all of which have concluded. Exhibit A, IECPA Response to PNG I-4. Ms. Burgraff's representation of her clients in these proceedings ended at the conclusion of these proceedings. *See id.*

Considering the inapplicability of the Competitive Duty Personnel label, Ms. Burgraff has executed Appendix B of the Protective Order certifying that she is not Competitive Duty Personnel with full knowledge of the legal ramifications associated with violating the Protective Order. Accordingly, Ms. Burgraff is entitled to inspect the all the Companies' Highly Confidential and Customer-Specific Discount Information as required by Section 4(c)(i) of the Protective Order. Moreover, specifically with respect to Peoples' contention that Ms. Burgraff only be permitted to view portions of this Information, IECPA requests clarification that Ms. Burgraff be allowed to review the same Information as Authorized Inspecting Attorneys and State Advocate experts.¹⁶

B. IECPA's Expert Witness Is Not Required To Inspect the Information Subsequent to Counsel.

¹⁵ Protective Order, P 4(c)(i).

¹⁶ There is no requirement in the Protective Order that non-Competitive Duty Personnel may be limited in their inspection of the Information.

IECPA submits that Ms. Burgraff is entitled to inspect the Information together with IECPA's attorneys. Contrary to the Companies' insistence, the Protective Order does not require Authorized Inspecting Attorneys to conduct an initial inspection of the Information and then provide a list of "necessary" information to the Companies to "consider" producing to the requesting party's expert witness or consultant.¹⁷ Requiring IECPA to conduct multiple inspections and placing arbitrary restrictions on the Information produced to IECPA's witness creates severe unfair prejudice of IECPA's discovery rights. Specifically, Peoples' request that IECPA provide to Peoples the list of information that Ms. Burgraff would need to prepare her testimony infringes on attorney-client privilege, especially when the State Advocate attorneys were not required to provide the same. Moreover, under Peoples' proposal, the State Advocates' witnesses would be able to provide testimony based upon the specific details contained in the Information, while IECPA's and Ms. Burgraff's testimony would have to be based upon generalities doled out piecemeal at Peoples' discretion.

Further, the blocking of Ms. Burgraff from this information runs afoul of the Commission's regulations governing protective orders. As explained in 52 Pa. Code § 5.423(d), "[p]roprietary information provided to a party under this section shall be released to outside counsel and eligible outside experts of the receiving party unless the party who is releasing the information demonstrates that the experts or counsel previously violated the terms of a recent protective order issued by the Commission." *Id.* (emphasis added). As no such violation has occurred, IECPA requests that Your Honor clarify that, consistent with IECPA's written requests and provision of Ms. Burgraff's executed copy of Appendix B, Ms. Burgraff is entitled to view the Information

¹⁷ There is no temporal limitation in the Protective Order requiring attorney review before expert review. Lack of this temporal limitation is further indicated by apparent delivery of this Information to State Advocate attorneys and experts at the same time.

together with IECPA's counsel and is not subject to any additional arbitrary or burdensome restrictions offered by the Companies.

C. As Used in the Protective Order, the Term "Inspect" Includes Note-Taking and Private Discussion By IECPA's Counsel and Expert Witness.

Section 4 of the Protective Order states that Highly Confidential Information and Customer-Specific Discount Information shall be "produced for **inspection**" to non-statutory intervenors and experts. As discussed in Section I, *supra*, the Companies have interpreted the verb "inspect" to exclude note-taking or private discussion by IECPA's counsel. Not only does this interpretation result in an unlevel playing field for IECPA when compared to the State Advocates' unfettered access to the Information, it also flagrantly defies the Commission's requirement that protective orders apply the "least restrictive means of limitation" and arguably represents a bad-faith attempt to exclude IECPA's full participation in these proceedings. Therefore, IECPA requests clarification that the term "interpret" as used in the Protective Order comports with the ordinary definition of the word rather than the Companies' unduly restrictive interpretation.

As such, IECPA's counsel and witness must be permitted to take notes during inspections to allow for a level playing field in presenting arguments in this proceeding. IECPA further requests that in light of the Companies' uncooperative attempts to prevent IECPA from meaningfully reviewing this Information, the Companies be required to make the Information available for a minimum of two business days per week to facilitate adequate inspection. In the alternative, in lieu of note-taking, IECPA's counsel and witness must be allowed to privately discuss this Information without the presence of opposing counsel and be provided with unlimited access (*i.e.*, five days a week during regular business hours) to this Information for the

remainder of the discovery period. Finally, if no note-taking is permitted, Columbia must present its Information for inspection at a location in or around Harrisburg.

Section 5.423 of the Commission's regulations require that where a protective order is deemed necessary, the Commission requires that the "least restrictive means of limitations . . . provide the necessary protections from disclosure."¹⁸ As IECPA has previously acknowledged, a protective order is appropriate in this proceeding;¹⁹ however, the language used in the protective order may not be used to infringe upon the discovery rights of non-statutory intervening parties. In disputes over a term used in a protective order, the presiding officer is required to ensure that the interpretation is not "unduly restrictive."²⁰ In the instant discovery proceedings, the Companies have interpreted the term "inspect" to mean "cursorily glance at thousands of data points and mentally absorb for later individual recall." Such an interpretation is entirely unreasonable based on the nature of the Information in the instant proceeding and undoubtedly qualifies as unduly restrictive.

During IECPA's June 11, 2013, attempt to inspect Equitable's Information, counsel was escorted to a conference room and confronted with more than 4,200 Excel cells of non-aggregated data spread across multiple documents. Counsel was then informed that she could not take notes. Moreover, she was informed that if IECPA's other counsel or expert witness were also in attendance, they would be overseen by Equitable's counsel during any discussion in an attempt to gain any sort of useful analysis of the Information for later recall and use in IECPA's Direct Testimony. Based on communications with the other Companies, IECPA expects similar inspection conditions with respect to all of the Companies.

¹⁸ 52 Pa. Code § 5.423(a).

¹⁹ *Answer of the Industrial Energy Consumers of Pennsylvania in Opposition to Motion for Protective Order*, Docket Nos. P-2011-227868, *et al.* (filed Apr. 10, 2013).

²⁰ *In re Bell Atlantic Corp.*, 92 Pa. P.U.C. 493, 498 (1999) (interpreting the term "use" to prohibit "thinking about" the contents of a proprietary document was unduly restrictive).

IECPA submits that such an interpretation of "inspect" is not only unduly restrictive, it defeats the purpose of discovery entirely.²¹ If IECPA is expected to mentally recall thousands of non-aggregated data points for use in preparing its Direct Testimony, and in responding to other parties' positions in Rebuttal Testimony, IECPA cannot effectively participate in this proceeding. Moreover, to IECPA's knowledge, neither the Commission (nor any other regulatory commission) has interpreted the term "inspect" to require mental absorption without note-taking or private discussion by counsel. Accordingly, IECPA requests that the term "inspect" be interpreted to include note-taking and private discussion to prevent further stonewalling and prejudicial treatment by the Companies.²²

In support of its Motion for Clarification, IECPA need only look to the definition of the word "inspect" to demonstrate that the Companies' interpretation of the term is in direct contrast to the word's actual meaning. Merriam-Webster defines the term "inspect" to mean "to view closely in critical appraisal."²³ Synonyms for "inspect" include "scrutinize" and "audit," while antonyms include "glance (at)" and "skim."²⁴ "Critical appraisal" and "scrutiny" of thousands of non-aggregated data laid out in multiple volumes in a conference room is impossible without note-taking and private discussion. Therefore, IECPA must be permitted to take notes and to privately discuss the Information during its inspection. The Companies' refusal to allow IECPA to take notes or conduct private discussions requires IECPA to "glance at" and "skim" the Information for later recall, which will undoubtedly result in missed or overlooked data and places IECPA on a decidedly unlevel playing field with other parties to this proceeding.

²¹ See 52 Pa. Code § 5.321(e) ("A party may obtain discovery for the purpose of preparation of pleadings, or for preparation or trial of a case, or for use at a proceeding initiated by petition or motion, or for any combination of these purposes").

²² Considering that IECPA's counsel is subject to professional responsibility requirements, combined with IECPA's witness executing the Appendix B, which binds her to the requirements of the Protective Order, the Companies' actions seem to be exactly the opposite of the respectful treatment normally accorded by the energy bar.

²³ See Merriam-Webster Dictionary, *Inspect*, available at <http://www.merriam-webster.com/dictionary/inspect>.

²⁴ See *id.*

Accordingly, the term "inspect" as used in the Protective Order should be clarified to mean "scrutinize or audit," and contemplate the use of note-taking and private discussion among IECPA's counsel and consultants.

In addition to comporting with plain meaning and definition, IECPA's interpretation of "inspect" is necessary to allow IECPA to attempt to participate on a level playing field with other parties to the proceeding in developing Direct Testimony and responding to parties' position in Rebuttal Testimony. Not only does Paragraph 4 of the Protective Order allow the State Advocates unfettered access to both Highly Confidential Information and Customer-Specific Discount Information, it also provides the State Advocates and their expert witnesses with copies of the Information.²⁵ Thus, IECPA is already at a competitive disadvantage to the State Advocates' attorneys and experts who have copies of the Information that can be directly cited on the record. Coupled with the significant investment of time required to travel to an inspection location, and the limitation of IECPA's inspection to two attorneys, the Protective Order immediately places the parties on unequal footing in developing and presenting their positions in this proceeding. Further burdening IECPA's inspection by excluding note-taking and private discussion among its counsel and expert witness frustrates the purpose of the inspection and severely prejudices IECPA's discovery rights.

Finally, the Companies' interpretation of "inspect" as limited to a cursory review with mental absorption is verging on an attempt to limit, if not eliminate, IECPA's ability to actively participate in this proceeding. The Protective Order requires the Companies to allow IECPA to inspect the Information, and the Companies' refusal to allow IECPA to take notes or engage in private discussions during inspections (not to mention the time that has passed during which Ms. Burgraff has been unable to view the Information) could be interpreted as an attempt to limit

²⁵ See Protective Order, P 4(b), n. 3.

IECPA's involvement in this proceeding rather than a legitimate protection of proprietary information.

As discussed above, Direct Testimony in this proceeding is due on August 8, 2013. Given the significant disadvantage IECPA is faced with in preparing its testimony without copies of the Information, IECPA requests that each Company be required to make the information available for inspection, with note-taking and private discussion permitted, for two mutually agreed-upon business days per week for the remainder of the discovery period. Although such availability may pose a minor inconvenience for the Companies, multiple inspections by IECPA's counsel and its witness will likely be necessary to effectively scrutinize the Information in developing IECPA's Direct Testimony. Requiring additional inspection availability will also help to slightly mitigate the effect of the prejudicial treatment IECPA has received under the Companies' interpretation of the Protective Order and will hopefully prevent further prejudicial treatment of IECPA's discovery rights.²⁶

D. In the Event that Inspections Exclude Note-Taking, IECPA Must Have Unrestricted Inspection Access Monday-Friday, During Normal Business Hours, For the Remainder of the Discovery Period At a Location In or Around Harrisburg.

Assuming *arguendo* that the term "inspect," as used in the Protective Order, is meant to exclude note-taking and private discussion,²⁷ IECPA requests that the Companies provide unrestricted access to the Information for inspection at any time, Monday through Friday, during normal business hours, through the remainder of the discovery period. As discussed in Section I, *supra*, Direct Testimony in the above-referenced proceeding is due on August 8, 2013. As a result of the above-described stonewalling tactics employed by the Companies in this

²⁶ For example, IECPA is concerned that, if any one of the Company's lead counsel is on vacation in the coming months, IECPA would be restricted from viewing the Information during this time. In light of the significant time that has been lost by IECPA to date, it is imperative that the Companies work with IECPA to ensure adequate access to this Information over the next 30 business days.

²⁷ Importantly, however, the Protective Order does not contain any language limiting inspection to such a restrictive degree.

proceeding, only 30 business days from today remain for IECPA and its expert witness to inspect, digest, and incorporate relevant Highly Confidential Information and Customer-Specific Discount Information into its Direct Testimony. Considering that IECPA is not currently permitted to facilitate such meaningful review, this timeframe only continues to shrink. Therefore, it is therefore essential that IECPA have unencumbered access to the Information to facilitate the multiple inspections that will be inevitably be required to look over the Information, attempt to absorb it, and later recall its substance and citation reference for use in preparing Direct Testimony. IECPA further requests that the Information be made available within the Harrisburg area to accommodate these frequent inspections.

IECPA recognizes that unrestricted access to the Information may pose an inconvenience for the Companies; however, any inconvenience the Companies may experience in ensuring personnel are available to "monitor" IECPA's attorneys during an inspection pales in comparison to the Protective Order's restrictions on IECPA's discovery rights with respect to Highly Confidential Information and Customer-Specific Discount Information. In addition, while the Protective Order contemplates that the Information be made available for inspection "in or around either Harrisburg or Pittsburgh," IECPA argues that the delays created by the Companies in facilitating inspections warrant limiting the geographic area to Harrisburg for the remainder of the discovery period. Specifically, although Columbia has agreed to allow for inspection at a location halfway between Canonsburg (or Pittsburgh) and Harrisburg, the frequent travel that would be required to review the Information without the ability to take notes would stretch the resources of IECPA and potentially Columbia.²⁸ Although this limitation may also pose an inconvenience, transfer of the documents to Harrisburg for inspection (if necessary, under the

²⁸ Both parties would spend unreasonable time and resources traveling to and reserving conference rooms at various locations along the Pennsylvania.

guardianship of outside counsel) poses less of a hardship on Columbia than the expenses involved with traveling on multiple occasions to inspect the Information.²⁹ Given the urgency of the approaching deadline for Direct Testimony, IECPA respectfully requests that the Companies be required to provide IECPA with unrestricted access to conduct inspections for the remainder of the discovery period to prevent further undue prejudice of IECPA's discovery rights.

III. REQUEST FOR EXPEDITED CONSIDERATION

As discussed in Section III(c), *supra*, Direct Testimony in the above-referenced proceeding is due on August 8, 2013, or approximately 30 business days from the date of the filing of this Motion. Accordingly, in order to ensure that the aforementioned clarifications are addressed, and in order to hopefully allow IECPA's counsel and its expert witness have adequate time to meaningfully inspect the Highly Confidential Information and Customer-Specific Discount Information at issue, IECPA respectfully that interested parties submit an Answer to this Motion by June 26, 2013.³⁰ This timing would allow Your Honor to review all issues and if possible provide an Order by July 1, 2013, so as to ensure that IECPA has at least the month of July to begin in earnest its discovery review before direct testimony is due on August 8, 2013.

²⁹ Considering that Columbia has used outside counsel in other PUC proceedings, all of whom have locations in Harrisburg, IECPA submits that transporting copies of this information to a conference room of such outside counsel would not create a substantive hardship for Columbia.

³⁰IECPA does not believe that such timing is unreasonable for an Answer. IECPA would note that it is presenting this Motion within two days since Your Honor indicated that a written Motion would be accepted. By the parties submitting Answers on July 26, 2013, they would also have two business days in which to respond. Considering that IECPA and the Companies have been wrestling with these issues since early June, IECPA submits that additional time for a response would only add to the prejudice IECPA is facing in this proceeding.

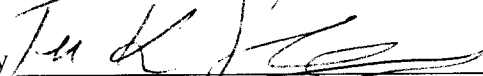
IV. CONCLUSION

WHEREFORE, the Industrial Energy Consumers of Pennsylvania respectfully request that the Pennsylvania Public Utility Commission provide relief as follows:

- (1) Clarify that IECPA's witness is not Competitive Duty Personnel and is therefore authorized to inspect Highly Confidential Information and Customer-Specific Discount Information;
- (2) Clarify that the term "inspect," as utilized in the Protective Order, contemplates note-taking;
- (3) Require that the Highly Confidential Information and Customer-Specific Discount Information be made available a minimum days a week by Peoples Natural Gas, LLC, Equitable Gas, LLC, and Columbia Gas of Pennsylvania, Inc., for the remainder of the discovery period to prevent further prejudicial treatment of IECPA's discovery rights; and
- (4) In the alternative, assuming *arguendo* that note taking would not permitted, require Peoples Natural Gas, LLC, Equitable Gas, LLC, and Columbia Gas of Pennsylvania, Inc., to make all Highly Confidential Information and Customer-Specific Discount Information available for inspection in the Harrisburg, Pennsylvania area Monday-Friday, during normal business hours through the remainder of the discovery period that may be inspected in private without the presence of opposing counsel.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

Pamela C. Polácek (PA I.D. No. 78276)

Charis Mincavage (PA I.D. No. 82039)

Teresa K. Schmittberger (PA I.D. No. 311082)

McNees Wallace & Nurick LLC

100 Pine Street

P.O. Box 1166

Harrisburg, PA 17108-1166

Phone: (717) 232-8000

Fax: (717) 237-5300

Counsel to the Industrial Energy Consumers of
Pennsylvania

Dated: June 24, 2013

Exhibit A

**INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA
RESPONSES TO INTERROGATORIES – SET I
OF PEOPLES NATURAL GAS COMPANY**

DOCKET NOS. P-2011-2277868 and I-2012-2320323

PNG-I-1 List by docket or case number and tribunal all civil, administrative or other formal cases on which Ms. Burgraff has provided consultant services, the subject matter of her consultancy, the beginning date (month and year) and end date (month and year) of her assignment, the client for whom the consulting services were provided, and, if different from the client for whom the consulting work was done, the person who retained her for the consulting work.

RESPONSE: See attached list provided for PNG-I-1. Mrs. Burgraff did not maintain records of the exact months when consulting projects began and ended.

Response provided by:
Diane Meyer Burgraff

Exhibit A

Attachment to IECPA Response to PNG-I-1
 Diane Meyer Burgraff- List of Consulting Projects

Year	Client	Case Type	Subject Matter	Role	Docket No.
2000	PA OCA	1307(f)	TW Phillips Gas Costs	Expert Witness	R-994967
2000	PA OCA	Special Filings	Natural Gas Restructuring	Consultant	Various
2001	PA OCA	1307(f)	TW Phillips Gas Costs	Expert Witness	R-00005807
2001	PA OCA	1307(f)	Penn Fuels Gas Costs	Expert Witness	R-00016379
2001	WV PSC-CAD	Base Rate Case	Hope Gas Service Company Charges	Expert Witness	Case 01-0330G42-T
2002-2004	Gannett Fleming	Rate Filings	Various Public and Private Water/Wastewater Companies	Analyst/Consultant	Various
2005	NGS Group	Supplement Filings	Columbia Gas Riders PPS and OSS	Expert Witness	R-00049783
2008	Commercial Customer	Complaint	PAWC v. L. Deligiannis Tariff Issues	Expert Witness	***
2008	IOGA	Base Rate Case	Equitable Gas Cost Allocation; Rate AGS	Expert Witness	R-2008-2029325
2011	PIPG	Complaint	Peoples Gas Tariff Issues	Expert Witness	C-20054393
2012	Snyder Brothers	Base Rate Case	Peoples Gas Tariff Issues	Expert Witness	R-2012-2285985
2013	IECPA	Petition/Investigation	Gas-on-Gas Competition	Expert Witness	P-2011-2277868 & I-2012-2320323

*** Due to the limited consulting and minor scope of this proceeding, Mrs. Burgraff did not retain records of the docket number.

Exhibit A

**INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA
RESPONSES TO INTERROGATORIES – SET I
OF PEOPLES NATURAL GAS COMPANY**

DOCKET NOS. P-2011-2277868 and I-2012-2320323

PNG-I-2 List by docket or case number and tribunal all civil, administrative or other formal cases in which Ms. Burgraff provided testimony, the subject matter of her testimony, and the date (month and year) that she testified. If her testimony in any listed proceeding was in the form of written testimony that was accepted into the record without cross-examination, please so indicate on the listing.

RESPONSE: See attached list provided for PNG-I-2. Mrs. Burgraff was employed for almost twenty-five years at Peoples Natural Gas Company ("Peoples Gas") and the majority of those years she was involved in the rates and regulatory area. Mrs. Burgraff (formerly Diane S. Meyer) testified in base rate cases, gas cost cases, competitive utility cases, and various other proceedings, with some in administrative courts and some in civil courts. As Vice President of the Financial Department for eight years, Mrs. Meyer had other duties outside of the rate area that occasionally required testimony. She does not have a record of all of the cases in which she testified as an employee of Peoples Gas, but the time period of her employment was 1974 to 1999. Some of these cases included testimony accepted into the record without cross-examination. When she left Peoples Gas, like any employee who leaves an organization, the company records and files are property of the company and she could not take records and files with her. She does not have a list of cases or other records of her testimony that she provided while an employee of Peoples. She estimates that she was involved in more than fifty litigated cases and many of them had cross-examination.

Response provided by:
Diane Meyer Burgraff

Exhibit A

Attachment to IECPA Response to PNG-I-2
 Diane Meyer Burgraft- List of Consulting Projects in which Testimony was Provided

Year	Client	Case Type	Subject Matter	Role	Docket No.
2000	PA OCA	1307(f)	TW Phillips Gas Costs	Expert Witness	R-994967
2001	PA OCA	1307(f)	TW Phillips Gas Costs	Expert Witness	R-00005807
2001	PA OCA	1307(f)	Penn Fuels Gas Costs	Expert Witness	R-00016379
2001	WV PSC-CAD	Base Rate Case	Hope Gas Service Company Charges	Expert Witness	Case 01-0330G42-T
2005	NGS Group	Supplement Filings	Columbia Gas Riders PPS and OSS	Expert Witness	R-00049783
2008	IOGA	Base Rate Case	Equitable Gas Cost Allocation; Rate AGS	Expert Witness	R-2008-2029325
2011	PIPG	Complaint	Peoples Gas Tariff Issues	Expert Witness	C-20054393
2012	Snyder Brothers	Base Rate Case	Peoples Gas Tariff Issues	Expert Witness	R-2012-2285985
2013	IECPA	Petition/Investigation	Gas-on-Gas Competition	Expert Witness	P-2011-2277868 & I-2012-2320323

Exhibit A

**INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA
RESPONSES TO INTERROGATORIES – SET I
OF PEOPLES NATURAL GAS COMPANY**

DOCKET NOS. P-2011-2277868 and I-2012-2320323

PNG-I-3 List all projects on which Ms. Burgraff has consulted, the subject matter, the beginning date (month and year) and end date (month and year) of her assignment, the client for whom the consulting services were provided, and, if different from the client for whom the consulting services were provided, the person who retained her for the consulting work.

RESPONSE: See attached list provided for PNG-I-1. Mrs. Burgraff did not maintain records of the exact months when consulting projects began and ended.

Response provided by:
Diane Meyer Burgraff

Exhibit A

INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA RESPONSES TO INTERROGATORIES – SET I OF PEOPLES NATURAL GAS COMPANY

DOCKET NOS. P-2011-2277868 and I-2012-2320323

PNG-I-4 Has Ms. Burgraff represented or consulted for gas producers and marketers?

- a. If yes, identify each gas producer and marketer so represented or consulted for, and for each gas producer and marketer identified, provide the subject matter of her service, the beginning date (month and year) and end date (month and year) of her assignment, and, if different from the gas producer and marketer identified, the person who retained her for the representation.

RESPONSE: Yes. See attached list provided for PNG-I-4. Mrs. Burgraff previously has consulted for four gas producers/marketers or groups for a limited period time in isolated proceedings before the Pennsylvania Public Utility Commission ("PUC"). First, in 2005, Mrs. Burgraff was retained by Todd Stewart as counsel of the NGS Group who had authorization from the group for the hire. The NGS Group was a group of gas suppliers some of whom may also have been marketers. As a consultant for the NGS Group, Mrs. Burgraff presented testimony in a Columbia Gas proceeding related to sales service customers at Docket Number R-00049783. Mrs. Burgraff's consulting for the NGS Group concluded at the closure of this PUC proceeding.

Second, in 2008, Mrs. Burgraff was retained by Lou D'Amico on behalf of IOGA. IOGA is a trade association comprised of producers and marketers. As a consultant to IOGA, Mrs. Burgraff presented testimony in an Equitable Gas proceeding related to gathering service rates at Docket Number R-2008-202325. Mrs. Burgraff's consulting for IOGA concluded at the closure of this PUC proceeding.

Third, in 2011, Mrs. Burgraff was retained by Pam Polacek, counsel for PIPG, who had authorization from the group for the hire. PIPG was a group of gas producers some of whom may also have marketed gas. As a consultant for PIPG, Mrs. Burgraff presented testimony as part of a Complaint proceeding against Peoples Gas related to tariff issues impacting PIPG members at Docket Number C-20054393. Mrs. Burgraff's consulting for PIPG concluded at the closure of this PUC proceeding.

Fourth, in 2012, Mrs. Burgraff was retained by Ben Snyder. Snyder Brothers is a producer and marketer. As a consultant for Snyder Brothers, Mrs. Burgraff presented testimony as part of a Peoples Gas base rate case related to tariff issues impacting Snyder Brothers at Docket Number R-2011-2277868 and I-2012-2320323. Mrs. Burgraff's consulting for Snyder Brothers concluded at the closure of this PUC proceeding.

Mrs. Burgraff currently only provides consulting work to the Industrial Energy Consumers of Pennsylvania as part of the instant proceeding.

Response provided by:
Diane Meyer Burgraff

Exhibit A

Attachment to IECPA Response to PNG-1-4
 Diane Meyer Burgraff- List of Consulting Projects for Gas Producers and Marketers

Year	Client	Case Type	Subject Matter	Role	Docket No.
2005	NGS Group	Supplement Filings	Columbia Gas Riders PPS and OSS	Expert Witness	R-00049783
2008	IOGA	Base Rate Case	Equitable Gas Cost Allocation; Rate AGS	Expert Witness	R-2008-2029325
2011	PIPG	Complaint	Peoples Gas Tariff Issues	Expert Witness	C-20054393
2012	Snyder Brothers	Base Rate Case	Peoples Gas Tariff Issues	Expert Witness	R-2012-2285985

Exhibit A

**INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA
RESPONSES TO INTERROGATORIES – SET I
OF PEOPLES NATURAL GAS COMPANY**

DOCKET NOS. P-2011-2277868 and I-2012-2320323

PNG-I-5 Has Ms. Burgraff represented or consulted end users of natural gas delivery services?

- a. If yes, identify each end user so represented or consulted for, and for each end user identified, provide the subject matter of her service, the beginning date (month and year) and end date (month and year) of her assignment, and, if different from the end user identified, the person who retained her for the representation.

RESPONSE: Yes. See attached list provided for PNG-I-5. Other than as part of the instant proceeding, Mrs. Burgraff has represented the Office of Consumer Advocate ("PA OCA") and the West Virginia Public Service Commission, Consumer Advocate Division ("WV PSC-CAD") and in that capacity was representing residential and small commercial end use customers. In the case of the PA OCA, Consumer Advocate Sonny Popowsky was responsible for approving the hire. In West Virginia, Consumer Advocate Bill Jack Gregg was responsible for the hire. Those cases involved sales service. She currently only provides consulting work to the Industrial Energy Consumers of Pennsylvania as part of the instant proceeding.

Response provided by:
Diane Meyer Burgraff

Exhibit A

Attachment to IECPA Response to PNG-1-5
 Diane Meyer Burgraf- List of Consulting Projects for End Users of Natural Gas Delivery Services

Year	Client	Case Type	Subject Matter	Role	Docket No.
2000	PA OCA	1307(f)	TW Phillips Gas Costs	Expert Witness	R-994967
2000	PA OCA	Special Filings	Natural Gas Restructuring	Consultant	Various
2001	PA OCA	1307(f)	TW Phillips Gas Costs	Expert Witness	R-00005807
2001	PA OCA	1307(f)	Penn Fuels Gas Costs	Expert Witness	R-00016379
2001	WV PSC-CAD	Base Rate Case	Hope Gas Service Company Charges	Expert Witness	Case 01-0330G42-T
2013	IECPA	Petition/Investigation	Gas-on-Gas Competition	Expert Witness	P-2011-2277868 & I-2012-2320323

Exhibit A

**INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA
RESPONSES TO INTERROGATORIES – SET I
OF PEOPLES NATURAL GAS COMPANY**

DOCKET NOS. P-2011-2277868 and I-2012-2320323

PNG-I-6 Identify any of the listings in the responses to the preceding data requests under which Ms. Burgraff is bound by a protective order, confidentiality agreement or similar obligation limiting her disclosure of information related to that listing and provide a copy of the controlling protective order, confidentiality agreement or similar obligation.

RESPONSE: In a Peoples Gas case at Docket Number C-20054393, in which Mrs. Burgraff represented PIPG, she recalls a protective order. That order would already be available to Peoples Gas and its attorneys.

Response provided by:
Diane Meyer Burgraff

Exhibit A

**INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA
RESPONSES TO INTERROGATORIES – SET I
OF PEOPLES NATURAL GAS COMPANY**

DOCKET NOS. P-2011-2277868 and I-2012-2320323

PNG-I-7 Identify any pending proposals submitted by Ms. Burgraff to provide consulting services to a gas producer, gas marketer, or end user of natural gas delivery services.

RESPONSE: There are none.

Response provided by:
Diane Meyer Burgraff

Exhibit A

**INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA
RESPONSES TO INTERROGATORIES – SET I
OF PEOPLES NATURAL GAS COMPANY**

DOCKET NOS. P-2011-2277868 and I-2012-2320323

PNG-I-8 Provide copies of any marketing materials (including but not limited to brochures, letters to prospective clients, websites and the like) used by Ms. Burgraff for her consulting services within the past five years.

RESPONSE: Mrs. Burgraff does not market to clients in any formal way. She may on occasion send an email to a previous client and indicate interest in being considered for a case but that is very rare and she has not kept copies of those emails. She relies on word-of-mouth referrals for her work. Mrs. Burgraff is not interested in full-time work as a consultant and spends a good deal of her time doing volunteer work outside of the energy industry. For several years from 2004 to 2010, she also had some family responsibilities that required some of her time. She accepts projects that have interest to her if she is contacted. She currently only provides consulting work to the Industrial Energy Consumers of Pennsylvania as part of the instant proceeding.

Response provided by:
Diane Meyer Burgraff

Exhibit A

**INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA
RESPONSES TO INTERROGATORIES – SET I
OF PEOPLES NATURAL GAS COMPANY**

DOCKET NOS. P-2011-2277868 and I-2012-2320323

PNG-I-10 Has Ms. Burgraff been requested to provide consulting service related to pricing of natural gas delivery services?

- a. If yes, identify each person who made such a request, the date of the request, whether consulting service was provided in response to the request, the beginning date (month and year) and end date (month and year) of any consulting service provided, and the person who provided the natural gas delivery service that was the subject of the request.

RESPONSE: See attached list provided for PNG-I-10. Mrs. Burgraff has consulted twice related to the pricing of natural gas delivery services for a limited period time in isolated proceedings at the Pennsylvania Public Utility Commission. First, in 2005, she provided testimony for the NGS Group related to sales service customers. Second, in 2008, she provided testimony for IOGA related to gathering service, a rate charged to producers and marketers rather than end users. As part of providing testimony, Mrs. Burgraff's consulting related mainly to utility rates and services within the confines of PUC jurisdiction.

Exhibit A

Attachment to IECPA Response to PNG-I-10
Diane Meyer Burgraff- List of Consulting Projects Related to Pricing of Natural Gas Delivery Services

Year	Client	Case Type	Subject Matter	Role	Docket No.
2005	NGS Group	Supplement Filings	Columbia Gas Riders PPS and OSS	Expert Witness	R-00049783
2008	IOGA	Base Rate Case	Equitable Gas Cost Allocation; Rate AGS	Expert Witness	R-2008-2029325