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June 27, 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: Dockets Nos. P-2011-2277868 and I-2012-2320323
Generic Investigation or Rulemaking Re "Gas-On-Gas Competition"

Dear Secretary Chiavetta:

We are counsel for Equitable Gas Company, LLC ("Equitable" or "Company") in the above matter and are submitting via electronic filing the Company's Answer to the Motion for Clarification and Request for Expedited Consideration filed by the Industrial Energy Consumers of Pennsylvania. Copies of Equitable's Answer are being served upon the persons and in the manner set forth on the certificate of service attached hereto.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By


Charles E. Thomas, Jr.

cc: Certificate of Service (w/encl.)
David W. Gray, Esquire (w/encl.)

130627 - Chiavetta (Answer to IECPA Motion) wpd

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Petition for Generic Investigation or Rulemaking Regarding “Gas-on- Gas” Competition Between Jurisdictional Natural Gas Distribution Companies	: : : : :	Docket No. P-2011-2277868
Generic Investigation Regarding Gas- On-Gas Competition Between Jurisdictional Natural Gas Distribution Companies	: : : :	Docket No. I-2012-2320323

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**ANSWER OF EQUITABLE GAS COMPANY
TO MOTION FOR CLARIFICATION AND
REQUEST FOR EXPEDITED CONSIDERATION**

AND NOW, comes Equitable Gas Company, LLC (“Equitable”), by its attorneys, and answers the Motion for Clarification and Request for Expedited Consideration of the Industrial Energy Consumers of Pennsylvania (“IECPA”) as follows:

Introduction

Late in the afternoon of Monday, June 24, 2013, counsel for Equitable was served by email with a copy of a Motion filed in the above matter by IECPA. The Motion requests expedited “clarification” in four respects which, for ease of response, Equitable addresses under separate headings below, using the language from the Motion’s Conclusion.

- (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.**

In the body of its Motion, IECPA splits its first request into two parts: (i) clarification that IECPA’s consultant is not a competitive duty personnel and is therefore entitled to review

Highly Confidential and Customer-Specific Discount Information (Section II.A) and (ii) clarification that IECPA's consultant is not required to inspect the information subsequent to counsel (Section II.B). Both issues are moot with respect to Equitable. Equitable has already permitted IECPA's counsel to review the subject information in a conference room in the offices of Equitable's counsel, a mere 2-1/2 blocks from the offices of IECPA's counsel. Thereafter, after having promptly reviewed the responses of IECPA's consultant, Diane Burgraff, to Peoples Natural Gas Company's Set I Interrogatories to IECPA, Equitable advised counsel for IECPA that Ms. Burgraff could review the subject information at the offices of Equitable's counsel, again just 2-1/2 blocks from the offices of IECPA's counsel, at a mutually convenient time. Equitable even suggested June 21, 2013 at 10:00 A.M. IECPA, however, never responded and Ms. Burgraff has yet to inspect the information.

In summary, the first matter requires no clarification with respect to Equitable. Responsibility for any delay in the inspection of the subject information, temporal or otherwise, must fall on IECPA, not Equitable.

(2) Clarify that the term "inspect," as utilized in the Protective Order, contemplates note-taking.

Contrary to the Motion's assertions, the language of the Protective Order does not require interpretation. "Inspection" means inspection only, not note taking, copying or other activities outside the purview of inspection. This is the ordinary definition, but IECPA through its Motion would seek to change the Protective Order more than a month after its issuance by including note-taking and private contemporaneous discussion. We have yet to find a dictionary, Merriam-Webster or other, which includes note-taking and contemporaneous private discussions in the definition of inspection. If note-taking and contemporaneous private discussions had been intended, the Protective Order would have said so. There is nothing novel about inspection only

in Commission proceedings, especially as in the instant situation where customer specific information is involved and the customers in question, and certainly the utilities, may be competing with one another. Such information could be used to competitive advantage in customer vs. customer and utility vs. utility situations. We do not understand why IECPA would need this information, and, even if it did, IECPA could obtain customer-specific discounted rate and retainage information from its own members.

The Motion's "unlevel playing field" analogy has no merit. This is not an adversarial proceeding. It is an investigation and IECPA is not in competition with I&E, OCA and OSBA. IECPA is an intervenor with a limited ability to participate in accordance with 52 Pa. Code Sections 5.71 through 5.76. In contrast, I&E, OCA and OSBA have a statutory right to participate which is much broader and because the "State Advocates" are not in competition with either the utility or the IECPA members permits a different level of participation with respect to Highly Confidential and Customer Specific Discount Information. Under the terms of the Protective Order and contrary to the Motion's assertions, access by the "State Advocates" to information is not "unfiltered," but is under the Protective Order issued in this proceeding, which is similar to protective orders routinely issued in other Commission proceedings. Access to information by I&E, OCA and OSBA is always different than the access of other participants.

In addition to its procedural assertions which are contrary to normal practice, the Motion is replete with assertions that have no basis in fact. For example, the Motion asserts on page 12 that "the Companies have interpreted the term 'inspect' to mean 'cursorily glance at thousands of data points and mentally absorb for later individual recall.'" Equitable does not know who is being quoted. IECPA's counsel was not restricted to a cursory glance. Counsel was allowed as much time as she wished. The Motion also exaggerates the amount of data. Contrary to the

assertion on page 13, there are not “thousands of non aggregated data laid out in multiple volumes,” but rather in Equitable’s case, approximately 40 pages of information in organized columns on a customer by customer basis. Counsel did not indicate any difficulty digesting the inspected information. If Counsel found the information difficult to digest, perhaps IECPA’s consultant will not.

The Motion’s assertion on page 13 that “the Companies’ actions seem to be exactly the opposite of the respectful treatment normally accorded by the energy bar” is uncalled for and disrespects the cooperation Equitable has extended to counsel who never even extended the courtesy of a reply to Equitable’s offer to have Ms. Burgraff inspect at the mutual convenience of both parties. We are not acting disrespectful, but rather appropriately protecting highly confidential, customer specific discount information.

On page 14, the Motion mentions “the time that has passed during which Ms. Burgraff has been unable to view the Information.” Equitable offered to have Ms. Burgraff inspect the information many days ago. Equitable’s offer still stands. Ms. Burgraff and counsel are welcome to come and inspect at a mutually convenient time. Unfounded assertions of the nature appearing in the Motion do not serve the public interest and should not mislead your Honor.

There is no need to revise the Protective Order to include note-taking and private contemporaneous discussions. Neither is contemplated under the Protective Order. Ms. Burgraff should be directed to commence inspection promptly.

- (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.**

Contrary to the Motion's assertion, IECPA's discovery rights have not been prejudiced. As discussed in the two prior sections of this Answer, and consistent with the Protective Order, counsel for Equitable has already permitted counsel for IECPA to inspect Equitable's Highly Confidential Information and Customer Specific Discount Information and has advised counsel for IECPA that Ms. Burgraff may do the same at the mutual convenience of both parties in a conference room 2-1/2 blocks from the office of IECPA's counsel. The third request is moot with respect to Equitable. Counsel for IECPA has presented no justification for access to highly confidential information beyond the inspection allowed by the Protective Order.

- (4) In the alternative, assuming *arguendo* that note taking would not be 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.**

In its fourth request, as discussed on pages 13-17 of the Motion, IECPA seeks unrestricted inspection access in private without the presence of "opposing" counsel. Motion at 15. The Motion's assertions on these points have already been addressed and should not require further exposition. However, Equitable must respond to the characterization that it is somehow in opposition to IECPA and its members which, along with others, are customers whose interests require privacy. The information being inspected is extremely sensitive for customers in competition with one another, some of which are members of IECPA and some are not. This is another reason why Equitable

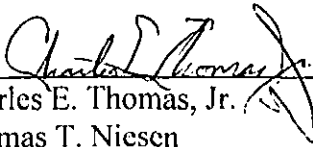
does not agree to inspection in private by counsel and consultant representing certain customers in competition with other customers whose information they are inspecting. The presence of Equitable's counsel is essential to protect the interests of its customers. The language of the Protective Order must control. Inspection is inspection and does not carry with it a right to do so in private without the presence of Equitable's counsel.

Finally and contrary to the Motion's assertions, Equitable is not "stonewalling." Motion at 15. Equitable has advised counsel for IECPA that the subject information is available for inspection by Ms. Burgraff at a mutually convenient time. Counsel for IECPA still has not responded. It is counsel's own delay that is limiting IECPA's ability to participate. IECPA has presented no reason why the access it seeks to extremely sensitive, highly confidential information is necessary in order for it to participate in this investigation and express its view about gas-on-gas competition.

WHEREFORE, for the foregoing reasons, Equitable respectfully submits that IECPA's Motion should be denied and IECPA's counsel directed to contact Equitable's counsel to schedule inspection of Equitable's Highly Confidential and Customer-Specific Discount Information by IECPA's consultant at the mutual convenience of both parties.

Respectfully submitted,

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Dated: June 27, 2013

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Petition for Generic Investigation or Rulemaking Regarding "Gas-on-Gas" Competition Between Jurisdictional Natural Gas Distribution Companies : **P-2011-2277868**

Generic Investigation Regarding Gas-on-Gas Competition Between Jurisdictional Natural Gas Distribution Companies : **I-2012-2320323**

CERTIFICATE OF SERVICE

I hereby certify that I have this 27th day of June 2013 served a true and correct copy of the Answer of Equitable Gas Company to Motion for Clarification and Request for Expedited Consideration, upon the persons and in the manner set forth below:

BY EMAIL AND FIRST CLASS MAIL

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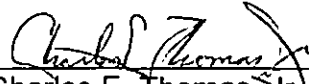
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